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TO

Amend the Law relating to Fisheries in Ireland, and for
 the better protection thereof. A.D. 1903.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1. This Act may be cited for all purposes as the Fisheries (Ireland) Act, 1903, and shall be construed as one with the Fisheries (Ireland) Acts, 1842 to 1891, and the said Acts and the Fisheries Close Season (Ireland) Act, 1895, and this Act may be cited together as the Fisheries (Ireland) Acts, 1842 to 1903. Short title and construction.
- 10 2. This Act shall not apply to England or Scotland. Extent of Act.
3. In this Act the term "the Fishery Authority" shall mean "the Department of Agriculture and Technical Instruction for Ireland." Fishery Authority.
- 15 4. In the fresh water portion of any river (except so far as the some may have heretofore been used within the limits of a several fishery next above the tidal flow) it shall be unlawful to shoot or extend any seine, draft, snap, or other net for the capture of salmon or trout, in such a manner that such net, including any ropes, buoys, or other apparatus used in connection therewith
- 20 shall extend across more than two-thirds of the breadth of such river in the place where the net is being used, or in such water, as aforesaid, to use any such net within a distance of two hundred yards from any other net which is being used and has not been fully landed. Provided always, that where in any such fresh
- 25 water portion of any river there shall be two several fisheries, separately owned and fished, and extending from opposite banks to a common boundary in the middle or other part of the stream of such river, it shall not be lawful to shoot or extend any net, as aforesaid, across more than two-thirds of the breadth of either of

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such fisheries; and any person using any net contrary to any of the provisions of this section shall be subject to a penalty not exceeding *ten pounds* and not less than *four pounds*, and any net used in contravention of any of the provisions of this section shall be forfeited.

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Certificates
for use of
nets in fresh
water.

5. No seine, draft, snap, or other net for the capture of salmon or trout shall be used in any fresh water river, or in any lake, save at such places therein respectively as such netting shall have been carried on during any three separate fishing seasons during the ten years prior to the *first day of January one thousand* 10 *nine hundred and three* by some person entitled to do so; nor without a certificate permitting such netting having been first obtained from the Fishery Authority, which certificate the Fishery Authority are hereby empowered to give, and any person using any net in contravention of the provisions of 15 this section shall be liable to a penalty of not less than *five pounds* and not exceeding *ten pounds* for every offence, together with the forfeiture of the net used. Provided always, that nothing in this section shall be deemed to lessen the power of the Fishery Authority to prohibit the use of nets in any place 20 where the same may be injurious or detrimental to the free passage of fish, and provided that such certificate shall contain a description of the nature and number of the net or nets to be used, and provided always, that it shall be lawful for the owner or owners of such fishery to appeal against any refusal to grant 25 such certificate or any restrictions or limitations therein by any order of the said Fishery Authority in manner herein-after provided.

Free gaps in
fishing weirs.

6. The Fishery Authority shall, when it appears expedient, hold a local public inquiry into the legality of a free gap in any 30 fishing weir, and if on such inquiry it shall appear to the Fishery Authority that the gap is not in accordance with the regulations of the ninth section of the Salmon Fishery (Ireland) Act, 1863, it shall be incumbent on the Fishery Authority (subject nevertheless to the provisions herein-after contained) to order and direct 35 such alterations in the free gap to be made, or acts to be done by the owner of such weir, as may in the opinion of the Fishery Authority be necessary to make the free gap in accordance with such regulations, and to fix a time within which such alterations are to be made, or acts to be done. Provided always, that nothing in any 40 Act of Parliament to the contrary shall render a permanent bridge over a legal free gap in any fishing weir illegal, which may have

heretofore been permitted by the Special Commissioners of Fisheries, appointed under the Salmon Fishery (Ireland) Act, 1863, or may hereafter be permitted by the Fishery Authority; and provided also, that it shall be lawful for the owner to appeal
5 from any such order or direction in manner herein-after provided.

7. If the Fishery Authority shall be satisfied without such inquiry, or it shall be found that a free gap is in conformity with the regulations of the ninth section of the Salmon Fishery (Ireland) Act, 1863, or if the owner of the weir shall duly make
10 such alteration in the free gap, or do such acts as may be ordered or directed by the Fishery Authority under the provisions of the last preceding section of this Act, the Fishery Authority shall give to such owner a certificate that the free gap is legal, and such certificate shall remain in force and be conclusive evidence of the
15 legality of such free gap until the same shall be revoked by the Fishery Authority, and the revoking of such certificate by the Fishery Authority shall be a condition precedent to the commencement of any proceedings for the recovery of any penalty for not maintaining the free gap in accordance with the provisions of the
20 Salmon Fishery (Ireland) Act, 1863.

Certificate of
legality to be
given where
gap legal.

8. The Fishery Authority shall preserve a record of every certificate granted under the provisions of this Act in respect of a free gap, and every such certificate shall contain a description of the position of such gap in reference to the structure of the weir
25 and the measurements of such gap at the time the certificate was granted; and it shall not be lawful for the Fishery Authority to revoke any such certificate unless and until it shall appear, after a public local inquiry held by the Fishery Authority, that the free gap is not substantially in accordance with the description and
30 measurements contained in the said certificate, and any person who shall be aggrieved by any order revoking such certificate may appeal in like manner as is herein-after provided with respect to appeals from orders of the Fishery Authority in relation to free gaps in weirs. Provided that instead of revoking such certificate
35 it shall be lawful for the Fishery Authority, after such inquiry as aforesaid, to require the owner of the weir to make such alterations, or to do such acts in respect of the free gap, to be specified in such requisition of the Fishery Authority, as shall bring the free gap into conformity with the description and measurements in the
40 certificate for the same; and if such alterations are made or acts done by the owner within such time as the Fishery Authority shall fix, the said certificate shall not be revoked. Provided that such

Fishery
Authority
to preserve
records of
certificates;
no authority
to revoke
unless under
certain
conditions.
Appeal from
order of
revocations.

A.D. 1903. "requisition" shall be subject to the same appeal as the "order" herein-before mentioned.

Appeal from
order of
Fishery
Authority.

9. If the owner of any fishing weir shall feel aggrieved by any order or direction of the Fishery Authority directing alterations to be made or acts to be done in respect of the free gap in such weir, or if the owner or lessee of any reserved fishery shall feel aggrieved by any order or direction of the Fishery Authority as to refusal to grant the certificate mentioned in section five of this Act, or by any limitation or restriction therein, it shall be lawful for such owner to appeal therefrom in manner provided 10 by the fourteenth section of the Salmon Fishery (Ireland) Act, 1863, in the case of an appeal from a decision of the Commissioners under that Act; and the provisions of the said section shall apply to such appeal as if the words "Fishery Authority" were inserted therein in lieu of the word "Commissioners," and the 15 words "King's Bench Division" in lieu of the words "Court of Queen's Bench." Provided always, that the provisions of the Supreme Court of Judicature (Ireland) Act, 1897, shall be extended to apply to any appeal under this section.

Penalty on
use of
fishing weirs
without
certificate.

10. From and after the *first day of January one thousand nine* 20
hundred and four, any person who shall make use of any fishing weir in which a free gap is by law required, and in respect of which there is not in force a certificate from the Fishery Authority that the free gap in such weir is legal, shall incur a penalty of not less than *twenty pounds* and not exceeding *fifty pounds*, and a 25 further penalty of *twenty pounds* for every day during which such fishing weir shall have been so used or fished. Provided always, that nothing herein contained shall apply to any such weir in respect of the legality of the free gap in which the Fishery Authority shall have been requested in writing by the owner to 30 grant a certificate, and shall have failed or neglected either to grant such certificate or to hold a local inquiry as aforesaid.

Certificates
for fixed
engines,
proof of
where
necessary.

11. On any application to the Fishery Authority for a transfer or renewal of a certificate for any fixed engine for which a certificate shall have been granted by the Fishery Authority, or in pursuance 35 of the provisions of the Salmon Fishery (Ireland) Act, 1863, or in any proceeding in respect of any of the provisions of the said Acts, or this Act, any one of the following documents shall be conclusive evidence that such fixed engine was legally erected for catching salmon or trout during the open season of one thousand eight hundred 40

and sixty-two, and of every other matter or thing contained in said certificate:—

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(a) The original certificate, or any renewal thereof subsequently issued in respect of such fixed engine, by the late Special Commissioners under the Salmon Fishery (Ireland) Act, 1863, or the inspectors of Irish Fisheries, or the present Fishery Authority, produced from the office of the Fishery Authority.

(b) A copy of any such original certificate, or of any renewal thereof, obtained from the office of any clerk of the peace (who is hereby required to furnish same) with whom the same may be lodged, and certified by him to be a true copy thereof.

(c) Any copy sealed by the seal of the said Special Commissioners or inspectors of Irish Fisheries, or the Fishery Authority.

12. Where a certificate has been granted for any fixed engine, which has been erected in pursuance of the provisions of the nineteenth section of the Fisheries (Ireland) Act, 1842, the right to erect and use such fixed engine may from henceforth be exercised by any person holding the same under a valid grant for any term or interest whatsoever, and the possession and occupation by such person of the land adjoining the shore to which such fixed engine is attached shall not be deemed necessary for the legal use of such fixed engine, anything in the said Act or the said Acts to the contrary notwithstanding.

Where certificate for fixed engine has been granted, how rights may be exercised.

13. The Fishery Authority may from time to time and, if requested by any person interested shall cause a survey to be made of any weir, dam, dyke, or other erection in or across any river frequented by salmon, for sustaining the water of such river for mill power, navigation, irrigation, or other like purposes, which since the tenth day of August one thousand eight hundred and forty-two has been constructed or enhanced, or which after the passing of this Act shall be constructed or enhanced, and if, after a public local inquiry held by the Fishery Authority, it shall appear that an efficient means of passage for fish does not exist in such weir, dam, dyke, or other erection, to require the owner or lessee of such weir, dam, dyke, or other erection within a time to be limited by them, to construct in such weir, dam, dyke, or other erection a fish pass or to alter any existing fish pass, such construction or alteration to be made in accordance with the order and direction of the Fishery Authority, which order and direction the Fishery Authority are hereby empowered to make and give; and if the owner or lessee

Fishery Authority may cause survey of any dam, other than fishing weirs erected since 1842, and order fish passes to be erected by owner.

A.D. 1903. of such weir, dam, dyke, or other erection shall make default in complying with such order or direction as aforesaid, he shall be liable to a penalty of *five pounds* for every day during which he is in default; and it shall be lawful for the Fishery Authority themselves to cause the said construction or alteration to be carried out, and to recover the expense thereby incurred from the owner or lessee of such erection, and the certificate of the Fishery Authority as to the amount of such expense shall be conclusive. Provided always, that such owner or lessee may appeal from any such order or direction of the Fishery Authority, as aforesaid, in like manner as is herein-before provided with respect to appeals from orders of the Fishery Authority in relation to free gaps in weirs. 10

Certificate of construction of fish pass.

14. Where the owner or lessee of any such weir, dam, dyke, or other erection, as in the last preceding section referred to, shall have constructed or altered a fish pass in accordance with the direction of the Fishery Authority, a certificate of the efficiency of such fish pass shall be granted to him by the Fishery Authority; and such certificate while unrevoked shall protect such owner or lessee from any penalty under the last preceding section of this Act. Provided always, that the provisions of section eight of this Act shall apply to any certificate granted under this section in respect of the contents and revocation of any such certificate. 20

Power to build fish passes in dams erected before 1842.

15. With respect to weirs, dams, dykes, or other erections existing on the tenth day of August one thousand eight hundred and forty-two, for sustaining the water of such river for mill power, navigation, irrigation, or other like purposes, and to which the provisions of section thirteen of this Act do not apply, it shall be incumbent on the Fishery Authority, out of any funds in the hands of the Fishery Authority applicable thereto, to order and direct such alteration to be made thereon, or such additional work to be added thereunto, as shall appear to the Fishery Authority necessary to afford a free passage for fish, but without doing any unnecessary injury to navigation or to the effective working power of any mill or factory. Provided always, that before making any such order, or giving such direction, the Fishery Authority shall communicate in writing with the owner of any such erection in regard to which it is proposed to make any alteration or do additional work, and, if so requested by such owner, shall hold a public local inquiry respecting the same. And it shall be lawful for such owner to appeal from any such order or direction of the Fishery Authority in like manner as is herein-before provided in respect of appeals from orders relating to free gaps in weirs; and any fish pass so provided as aforesaid shall be maintained by the Fishery Authority 25 30 35 40

out of any funds in their hands applicable thereto for the period of three years after the same shall have been provided as aforesaid; and from and after the expiration of such period of three years the owner of such weir, dam, dyke, or other erection shall maintain
 5 a fish pass in such weir, dam, or dyke, and the same shall be subject in all respects to the provisions herein-before contained with respect to weirs, dams, dykes, and other erections constructed or enhanced since the tenth day of August one thousand eight hundred and forty-two.

- 10 16. The owner or lessee of any weir, dam, dyke, or other erection placed after the tenth day of August one thousand eight hundred and forty-two in or across any river frequented by salmon or trout, for sustaining the water of such river for mill or hydraulic power, or for navigation, irrigation, or other purposes, and which
 15 dam, dyke, or other erection is decided by the Fishery Authority to be defective in respect of non-compliance with the provision for the free passage of fish specified in section sixty-three of the Fisheries (Ireland) Act, 1842, shall be liable to a penalty of *five pounds* for every day during which such dam, dyke, or other
 20 erection shall be so defective.

Penalty for not building fish passes on dams erected in rivers since 1842.

17. Where a turbine or other hydraulic machine is supplied by means of a watercourse with water from a river frequented by salmon, the person owning or using such turbine or other hydraulic machine shall, if so required by the inspectors of Irish
 25 Fisheries, construct immediately on the up-stream side of the said turbine or other hydraulic machine, a by-wash extending in depth to the level of the bottom of such watercourse, and joining such watercourse with such river; and shall also construct in such watercourse immediately on the down-stream side of such by-wash,
 30 gratings or other efficient means so as to prevent salmon or the young of salmon from passing into such turbine or other hydraulic machine; and such by-wash, gratings, and other efficient means shall be constructed and maintained to the satisfaction of the inspectors of Irish Fisheries, and shall be so constructed, if
 35 possible, as to be open at all times to inspection; and such by-wash shall be kept open from twelve o'clock p.m. on each Saturday night to twelve o'clock p.m. on the Sunday night following; and such person making default in any of the provisions aforesaid shall forfeit and pay a sum of not less than *five pounds* nor more than
 40 *twenty pounds* for each day during which such default shall continue.

Construction of by-washers.

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Dynamite
or other
explosive
with intent
to kill fish.

18. Any person throwing into or using, or aiding and abetting any person in throwing into or using, in any lake, river, or estuary, or having in his possession near any lake, river, or estuary, dynamite, or other explosive compound, with intent to kill or destroy salmon or other fish, shall be liable, on summary conviction, to a penalty not exceeding *twenty pounds* and not less than *five pounds*, or, in the discretion of the court, to be imprisoned, with or without hard labour, for a term not exceeding two months. 5

Penalty for
having in
possession
salmon, &c.,
killed by
explosives
or other
deleterious
matter.

19. Any person found in possession of any salmon or trout under such circumstances as shall satisfy the court before whom he is tried that such fish were illegally killed by the use of poisons, explosive, or other deleterious matter, shall be liable to a fine of not less than *two pounds* and not exceeding *twenty pounds*, and a further penalty of *ten shillings* for each fish found in possession under such circumstances, or, in the discretion of such court, to be imprisoned, with or without hard labour, for a term not exceeding *two months*, unless he shall satisfy the court that such fish came into his possession without the knowledge, or reasonable means of knowledge, on his part, that such fish were killed in any such manner as aforesaid. 10 15 20

Placing
poisonous
matter in
river or lake.

20. Any person who shall place in, or throw, or assist in placing or throwing, or cause or permit to be placed or thrown, into any river or lake any lime, spurge, or other deleterious or poisonous matter, or any person who shall be found in or near the bank of any river, or the shore of any lake, taking or attempting to take any fish killed by explosives, lime, spurge, or other deleterious matter, or having the same in his possession, shall be liable to pay a fine of not less than *two pounds* and not exceeding *twenty pounds*, or, at the discretion of the court, to be imprisoned, with or without hard labour, for a term not exceeding *two months*. But it shall be lawful for the Conservators of any fishery district in which such offence shall have taken place, or their clerk with his assistants, or in their absence, for the owner of a several fishery within the limits thereof, assisted by the constabulary, to take and collect such poisoned and killed fish, which when so collected shall be handed over to the clerk of the said Conservators of the said fishery district, and the said clerk shall forthwith proceed to sell such fish so handed over to him or collected by him to the best advantage, and shall place the proceeds of such sale to the credit of the said Conservators. Provided always, that if no such sale, or so far as no such sale shall have taken place within four days after such fish shall have come into his hands, then the said clerk, so far as no 25 30 35 40

such sale shall have taken place, shall destroy said fish and render same unfit for human food. A.D. 1903.

21. No person shall throw, empty, or discharge into any lake or river, which is, has been, or would be, except for such poisonous substance, frequented by salmon or trout, any dyestuff or other deleterious or poisonous liquid, matter, or substance, from any mill, factory, mining, or mineral works, or manufactory, or manufacturing process, or premises, whether in suspension, liquid, or solution, or other form, and no person shall be deemed to have acquired a prescriptive right to such usage, by doing so for any number of years.

22. In case it shall appear that there has been thrown, emptied, or discharged into any river or lake any dyestuff or other deleterious or poisonous liquid, matter, or substance proceeding from any mill, creamery, factory, mining, or mineral works or manufacturing process, or premises, and whether in suspension, liquid solution or other form, and the person who shall have actually committed any such offence shall not be known or found, then and in such case the owner or occupier of such mill, creamery, factory, mining or mineral works, or manufacturing process, or premises, shall be liable to a penalty not exceeding *ten pounds*, and in the case of a first conviction, of not less than *ten shillings*, and of a conviction other than the first, of not less than *one pound*, as if such offence had been actually committed by such owner or occupier.

23. The word "fish," wherever the same is used in the Pollen Fisheries (Ireland) Act, 1891, shall include salmon and trout, and the powers of opening and examining baskets and boxes and other packages containing fish conferred by the said Act shall extend to all baskets, boxes, and packages reasonably supposed to contain salmon or trout, and the powers of seizure of fish conferred by the said Act shall extend to all salmon and trout illegally caught, or reasonably supposed to have been illegally caught, and the words "illegally caught" in the said Act and in this Act shall extend to all salmon and trout reasonably supposed to have been illegally caught or killed by any poisonous, explosive, or noxious matter, or any other unlawful means, and to any unseasonable or unclean fish.

24. If any person shall steep any flax or hemp in any river or lake, or shall empty or discharge, or permit to run or flow into any river or lake, any water in which flax or hemp has been steeped, such person shall forfeit and pay for every such offence a sum not less than *two pounds* and not exceeding *ten pounds*; and if any person shall construct or maintain any flax dam or other receptacle

[130.]

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Allowing poisonous matter to flow into rivers from any manufactory. Owner or occupier liable, if person who actually committed offence not known.

Extension of 84 & 85 Vict. c. 20.

Penalty for steeping flax or hemp in any river or lake.

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for steeping flax or hemp in such a manner that deleterious matter from such receptacle can escape or drain into any river or lake, such person shall be liable to a penalty of not less than *two pounds* and not exceeding *five pounds* for every day during which such receptacle shall remain so constructed or maintained; and in case 5 the person who shall have actually committed any offence under this section shall not be known or found, then in such case the occupier of the land on which such flax or hemp shall have been steeped, or on which such receptacle has been constructed or maintained, or where flax or hemp has been steeped in any river or lake, 10 the owner of such flax or hemp shall be deemed and taken to be liable to and shall incur the penalty or penalties as aforesaid, as if such offence had been committed by such occupier respectively. Provided always, that it shall be lawful for a water bailiff, duly authorised for that purpose, to discharge or permit to be discharged 15 or run into any river during a time of flood therein, any water in which flax or hemp has been steeped.

Extension to
Ireland of
35 & 36 Vict.
c. 50.

25. The Salmon and Freshwater Fisheries Act, 1892, with the exception of sections one and two thereof, shall apply to Ireland with this variation, namely, that in its application to Ireland it shall be construed together with the Fisheries (Ireland) Acts, 1842 to 1891, and as if in section three thereof the word "March" was substituted for the word "February," and in section four thereof the words "Fisheries (Ireland) Acts, 1842 to 1903," were substituted for the words "Salmon and Freshwater Fisheries Acts, 1861 to 1892."

Penalty for
having in
possession
during close
season any
salmon or
trout, or
part thereof.

26. No person shall have in his custody or possession, or buy, sell, or expose for sale, any salmon or trout, or part of any salmon or trout, in any town or place during the close season for salmon or trout, for the river or lake, or estuary, or part of the sea coast 30 nearest to such town or place; and any person acting in contravention of this section shall forfeit any salmon or trout, or part of any salmon or trout, found in custody or possession, or bought, sold, or exposed for sale, and shall incur a penalty not exceeding *ten pounds* and not less than *two pounds*; and a further penalty of 35 not less than *ten shillings* and not exceeding *two pounds* for every such salmon or trout. But nothing herein contained shall apply to any person having in his custody or possession, or buying, selling, or exposing for sale any clean fresh salmon or trout caught beyond the limits of the United Kingdom, or caught within the limits of 40 the United Kingdom, at a time when and in a place where the capture of the same was lawful, but the burden of proving that any clean fresh salmon or trout so found in custody or possession,

or bought, sold, or exposed for sale, was captured abroad, or lawfully captured within the United Kingdom, shall lie on the person having in his custody or possession, or buying, selling, or exposing for sale any such salmon or trout, or part thereof.

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- 5 27. All officers and men of the constabulary, and any inspector, water bailiff, or other officer appointed under the Fisheries (Ireland) Acts now in force, acting within the limits of his district, if there is at any time reasonable cause to suspect that any person has in his custody or possession any salmon or trout or other fish
10 which has been caught or killed contrary to any of the provisions of the Fisheries (Ireland) Acts, 1842 to 1903, may seize such salmon or trout or other fish, and detain the same until proof is given that the same was not so caught or killed, and if before such proof is given any such salmon or trout or other fish, detained
15 under the provisions of this section, becomes unfit for human food, may destroy the same; and any person having any such salmon or trout or other fish in his custody or possession, knowing the same to have been so caught or killed as aforesaid, shall be liable to a penalty of two pounds for each such fish, and to the forfeiture of each such
20 fish. Provided that in every proceeding for the recovery of the said penalty the onus of proving that each such salmon or trout or other fish was not caught or killed contrary to the provisions aforesaid shall be on the person in whose custody or possession such salmon or trout was found. And provided that none of the parties
25 hereby authorised to seize and detain such salmon or trout or other fish as aforesaid shall be liable for any damage caused by such seizure or detention, unless the same shall be done wantonly and maliciously.

Constabulary and any authorised officer may seize any salmon caught contrary to provisions of Act.

28. It shall be lawful for and incumbent on any justice of the
30 peace, upon an information on oath that there is reasonable cause to suspect at any time that there are on any dwelling-house or other premises any salmon, trout, or other fish which have been caught or killed contrary to the provisions of the Fisheries (Ireland) Acts, 1842 to 1891, by warrant under his hand and seal, to authorise and
35 empower by name any officer or man of the constabulary, or any inspector, water bailiff, or other officer appointed under the said Acts, to enter the said dwelling-house or other premises for the purpose of seizing and detaining such salmon, trout, or other fish, at such time or times in the day or night as in such warrant may
40 be mentioned, provided that no such warrant shall continue in force for more than one week from the date thereof.

Justices may grant warrant to search dwellings where there is reasonable cause to suspect there are any fish caught contrary to the Acts.

A.D. 1908.

Using light or fire in fresh waters or on the banks of any river, or spear, lyster, strokehaul, dree draw, otter gaff, &c., or disturbing spawning fish, or damming or teeming.

29. Sections sixty-five and seventy-eight of the Fisheries (Ireland) Act, 1842, and section forty of the Fisheries (Ireland) Act, 1850, are hereby repealed, and in lieu thereof it is enacted that if any person shall have or use, or assist any person in using, in any fresh water, river, or lake, or on the banks thereof, at any time during any season of the year, for the purpose of, or with the intent of, taking or destroying salmon or other fish, or the fry thereof, any light or fire of any kind, or any basket, vessel, spear (except eel spears), lyster, strokehaul, dree draw, or other such instrument, otter or gaff (except when the latter implement is used solely as auxiliary to angling legally with rod and line, or for the purpose of removing fish from any legal weir or box by the owner or occupier thereof), or any net (except a lawful net had or used by the owner of a several fishery or his licensee within the limits thereof); or if any person shall be found at any time chasing, injuring, or disturbing spawning fish, or fish on the spawning beds, or attempting to catch fish in such places (except lawfully with rod and line only within the lawful period), or damming or teeming, or emptying or assisting to dam or teen, or empty any weir, water-course, river course, or mill race, for the purpose of taking or destroying any salmon or trout, or other fish, or the fry thereof, every person so offending in any of the cases aforesaid shall forfeit all such baskets, vessels, instruments, and implements, and shall forfeit and pay any sum not exceeding *ten pounds* and not less than *four pounds*; and in case any salmon or trout has been killed or destroyed, shall forfeit such salmon or trout, and forfeit and pay a further sum of *one pound* in respect of each salmon or trout so killed or destroyed.

Penalty for trespassing on several fisheries.

30. Section forty-one of the Fisheries (Ireland) Act, 1848, is hereby repealed, and in lieu thereof be it enacted that if any person not being authorised by the owner, lessee, or occupier of a several fishery, as defined by the Fisheries (Ireland) Act, 1850, shall enter into or upon such several fishery for the purpose, or under the pretence of killing fish therein, or taking fish therefrom, or shall kill fish therein, or take fish therefrom, he shall for every such offence be liable to pay a sum of not less than *five pounds* and not more than *ten pounds*, and to the forfeiture of any engine used.

Where three or more persons acting in concert and found between the

31. If three or more persons acting in concert, or being together in company, shall at any time between the expiration of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning enter, or be

found on any ground adjacent or near to any lake, river, estuary, or the sea, or in or upon any lake, river, or estuary, or the sea, with intent illegally to take or kill salmon or trout, or having in his or their possession any net, rod, spear, light, gaff, or other instrument
 5 used for taking salmon or trout, with such intent as aforesaid, or shall illegally take or kill, or attempt to take or kill, or aid, or assist in killing or taking salmon or trout, every such person shall be liable on summary conviction either to a fine not exceeding *ten pounds* and not less than *five pounds*, or in the discretion of the
 10 court to be imprisoned, with or without hard labour, for a term not exceeding two months, and to the forfeiture of all boats, nets, gear, and instruments used, or attempted to be used, in such illegal fishing.

32. No crib, cruipe, box, fixed engine, or other device, and
 15 no net of any description (save landing nets when used solely as auxiliary to angling with rod and line) shall be used for the capture of trout of any description in any lake, river, or estuary, tideway, or other part of the seacoast frequented by salmon during such periods as may be, or may have been, fixed by or in pursuance
 20 of the powers conferred by the Fisheries (Ireland) Acts as the close time for fishing for salmon by means other than by angling with single rod and line in respect of such waters. If any person shall take, or fish for, or aid or assist in taking or fishing for trout by the means, and in the waters aforesaid, and within such periods as
 25 aforesaid, he shall forfeit and pay for every such offence a sum not exceeding *ten pounds* nor less than *four pounds*, and shall also forfeit every such engine, device, or net used contrary to the provisions of this section, and shall also forfeit every fish so taken.

30 33. The provisions of the Wild Birds Protection Act, 1880, and of the Wild Birds Protection Act, 1894, shall, in the application thereof to Ireland, be amended, and take effect as if cormorants and mergansers, and the eggs of cormorants and mergansers, were excluded from the operation of the said Acts.

34. The appointment by any Board of Conservators of
 the clerk to such board shall be subject to the approval of the Fishery Authority, and the clerk so appointed, or any clerk
 holding office at the time of the *passing of this Act*, shall not be dismissed or superseded without the consent of the Fishery
 40 Authority, and the Fishery Authority may, by special order, remove any clerk to a Board of Conservators from his office, if after due inquiry the Fishery Authority shall think fit to make such order.

[130.]

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expiration of the first hour after sunset and the beginning of the last hour before sunrise on any ground near to any river, &c., with intent to take illegally fish, or having in possession any net, rod, spear, light, gaff, &c., penalty.

Use of nets &c. for taking trout prohibited in any waters frequented by salmon during the close season for salmon.

Cormorants and mergansers to be excluded from the Wild Birds Acts.

Appointments of clerks of Boards of Conservators to be approved by Fishery Authority, who are empowered to discontinue.

A.D. 1903.

On appeal
Lord Lieu-
tenant in
Council may
alter or
amend
byelaws.

35. Upon any appeal from any byelaw made by the Fishery Authority it shall be lawful for the Lord Lieutenant in Council to amend, alter, confirm, or reject any such byelaw, and to make such new byelaw in lieu thereof as he may deem just, and after the decision of the Lord Lieutenant in Council has been given on such 5 appeal as aforesaid, the Fishery Authority shall have the same powers to make that byelaw as affirmed, amended, or altered, or such new byelaw in lieu thereof as aforesaid, as the Fishery Authority would have had to make the original byelaw if it had not been appealed against. Provided that nothing herein contained 10 shall be construed to allow the Fishery Authority to make any byelaw which shall be repugnant to any law or statute in force in Ireland.

Repeal of
part of
thirty-third
section,
5 & 6 Vict.
c. 105.

36. Such portion of section thirty-three of the Fisheries (Ireland) Act, 1842, as provides that the expenses of the applica- 15 tion in the said section mentioned, and all proceedings consequent thereon, shall be defrayed by the person or persons who have signed such application, is hereby repealed; and in lieu thereof be it enacted that any person making such application shall forward to the Fishery Authority, together with such application, an affidavit 20 sworn by him, setting out the nature of the interest held by him in the fisheries of the district, or the part thereof in which a change of season is sought for, and the reasons offered by him in favour of such proposed change; and the Fishery Authority, on receiving such application and affidavit, shall forthwith cause notice of the 25 receipt thereof to be advertised in two or more newspapers circulating in such district, together with the names of the applicants, the particulars of the change sought for, and the reasons offered by the applicants for such proposed change, and shall furnish the clerk of the Board of Conservators with a copy of such 30 application and affidavit, and it shall be lawful for any person interested in such fisheries as aforesaid, and objecting to such proposed change, within one month after the insertion of such advertisement, to forward to the Fishery Authority an affidavit setting out his interest as aforesaid, and the reasons he may offer 35 against such proposed change, and the Fishery Authority having received such last-mentioned affidavit, if it shall appear to the Fishery Authority that a *prima facie* case for an inquiry has been made out, may, before holding an inquiry, require the applicant to lodge with the Fishery Authority such sum by way of security 40 for the costs of such inquiry, and all proceedings consequent thereon, as the Fishery Authority shall deem proper, and after holding such inquiry, may order that the expenses of the applica-

tion, and all proceedings consequent thereon, and the expenses or any part thereof of any party in objecting to such application shall be defrayed by the Fishery Authority or by the person who shall have made such application.

A.D. 1903.

5 **37.** The minimum penalty for any offence against any of the provisions of the Fisheries (Ireland) Acts, 1842 to 1903, for which a minimum penalty has not been specified by the said Acts, shall be a sum of *two pounds*. Provided that the penalty in respect of any offence against any of the provisions of the said Acts shall, on
10 a conviction for a second like offence, be not less than one half of the maximum penalty capable of being imposed in respect of such offence, and on a conviction for a third or subsequent like offence not less than the maximum penalty specified and capable of being imposed.

Minimum penalties.

15 **38.** Any person fishing for, taking, killing, or attempting to take or kill any salmon by any means whatsoever, other than a lawfully licensed fishing weir, fishing mill dam, engine, net, instrument, or device, or assisting any person in so doing, shall be liable to a penalty of not less than *two pounds* and not exceeding *five*
20 *pounds*, and in case any salmon has been taken or killed, to a further penalty of not less than *one pound* in respect of each salmon so taken or killed. Provided that nothing in this section contained shall at any time be construed as intending, directly or indirectly, to repeal, alter, or amend any penalty already provided in the case
25 of an offence against any of the provisions of the Fisheries (Ireland) Acts, 1842 to 1891, or of this Act.

Attempting to take salmon by any unlawful means.

39. The words "unseasonable salmon" in section seventy-four of the Fisheries (Ireland) Act, 1842, shall, without prejudice to any other meaning, be deemed to include salmon called by the
30 terms keeves, kippers, slats, kelts, or mended kelts, and salmon by whatever local name known, which are returning to the sea after spawning.

Unseasonable salmon.

40. Notwithstanding any order or byelaw now in force the annual close season for the fishing for and capture of eels in any
35 river by any fixed engine shall not commence in any year later than the *tenth day of February*, and shall not end sooner than the *first day of July* in such year. Nothing in this section shall be deemed to restrict the existing powers of the Fishery Authority by order or byelaw to increase the period of said annual close season
40 for the capture of eels.

Annual close season for eels.

A.D. 1903.
 Repeal of
 30th section
 11 & 12 Vict.
 c. 92.
 respecting
 angling
 licences.

41. The provisions of the thirtieth section of the Fisheries (Ireland) Act, 1848, are hereby repealed so far as the same relate to the exemption from additional licence duty of any person angling with a rod in any other district than that in which he has paid a licence duty for such rod, and in lieu thereof be it enacted that if 5 any person shall have paid a licence duty for a rod within any fishery district, such person, when angling with a rod in any other district, shall be liable to pay an additional sum of not more than one fourth of such original licence duty as an additional licence duty in such other district; and any person contravening the 10 provisions of this section shall be liable to the penalty prescribed in the case of any person angling with rod and line without licence.

Penalty for
 placing other
 than gold fish
 and the kinds
 of salmon,
 trout, char,
 and pike
 which are
 indigenous
 in rivers, &c.
 without the
 written con-
 sent of the
 Fishery
 Authority.

42. No person save with the written consent of the Fishery Authority, which consent the Fishery Authority are hereby 15 empowered to give, shall place, or cause to be placed in, or wilfully or negligently allow to pass into any lake, river, stream, or any hatchery used for the artificial propagation of any fish, or any pond, or stew, any fish, or the spawn or fry of any fish, other than gold fish and the kinds of salmon, trout, char, and pike which are 20 indigenous to the United Kingdom. Provided that nothing herein contained shall prevent any person from keeping any fish whatsoever in aquaria duly safeguarded from communication with any lake, river, pond, stew, or hatchery as aforesaid. And any person 25 offending against any of the provisions of this section shall be liable to a penalty not exceeding *ten pounds* for each offence.

Repeal of
 sec. 22 of
 26 & 27 Vict.
 c. 114.
 Nothing in Act
 to render any
 person liable
 to penalty who
 with the con-
 sent of the
 Fishery
 Authority shall
 have in
 possession sal-
 mon or trout
 for artificial
 propagation,
 or other
 scientific pur-
 poses during
 the close
 season.
 Fishery
 Authority
 may permit
 any person

43. The twenty-second section of the Salmon Fishery (Ireland) Act, 1863, is hereby repealed, and in lieu thereof be it enacted that nothing in the Fisheries (Ireland) Acts, 1842 to 1903, contained shall apply to any person who, with the written permission of the 30 Fishery Authority, which permission the Fishery Authority are hereby empowered to give, shall catch, or attempt to catch, or shall have in his custody or possession, during the close season for the same, any salmon or trout for the purpose of artificial propagation or other scientific purposes, and nothing in the said Acts contained 35 shall prejudice the legal right of any owner of the soil and bed thereof to take materials from any part of any stream, other than such part thereof as is a spawning bed for salmon or trout.

44. It shall be lawful for the Fishery Authority, anything in 40 the Fisheries (Ireland) Acts, 1842 to 1891, notwithstanding, to grant permission in writing to any person to purchase or sell at any

season of the year the spawn and fry of salmon or trout, provided that such permission shall be limited to purchase or sale exclusively for the purpose of artificial propagation or the stocking of rivers, and be subject to such restrictions and regulations as the Fishery Authority may deem it expedient to impose thereon; and any person who shall sell or purchase, or have in his possession any such spawn or fry without such permission, or contrary to such restrictions or regulations, shall be liable to a penalty of not less than *two pounds* and not exceeding *ten pounds* for every such offence.

to purchase or sell at any season spawn and fry of salmon provided it be limited exclusively for artificial propagation or stocking rivers.

45. It shall be lawful for the Fishery Authority to give permission in writing to any person engaged in the business of propagating trout artificially, in any waters safeguarded from any communication with any river or lake frequented by salmon, to take from such waters for the purpose of sale, and to sell, any rainbow trout during the close season for salmon within the district in which such waters are situate. Provided always, that such sale shall be exclusively for the purpose of stocking any river, lake, or other water not frequented by salmon; and any person who shall place, or throw, or negligently or wilfully allow any rainbow trout to escape into any river or lake frequented by salmon, or any tributary thereof, without first having obtained the permission in writing of the Fishery Authority, which permission the Fishery Authority are hereby empowered to give, such person shall be liable to a penalty of not less than *ten pounds* and not exceeding *fifty pounds*. Provided always, that the Fishery Authority shall not give such permission unless and until the consent of the owners, occupiers, or other persons substantially interested in the salmon fisheries of the river or lake into which it is proposed to place any rainbow trout shall have been first obtained by the Fishery Authority.

Fishery Authority may permit sale of rainbow trout during close season provided it be exclusively for stocking waters not frequented by salmon except under certain conditions.

46. It shall be lawful for the Fishery Authority, by byelaws made from time to time, to define and re-define from time to time, the boundary between the tidal and fresh water portion of any river for the purposes of the Salmon Fisheries (Ireland) Acts, 1842 to 1903. Provided always, that the making of, and the appeal from, any such byelaws shall be subject to all the provisions now in force relating to the making of or appeals from byelaws made under the said Acts.

Fishery Authority may re-define boundaries between tidal and fresh waters.

47. This Act shall come into operation on the first day of January nineteen hundred and four.

Commencement of Act.